S.B.CIVIL WRIT PETITION NO.2420/1997

Dr.(Major)Hari Singh Rathore
v.
Nuclear Power Corporation of India Ltd.

DATE OF ORDER :: 7th March, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kamal Dave]
Mr. PS Bhati] for the petitioner.
Mr. Arun Bhansali, for the respondent.

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After getting retired from the service of Indian Army, the petitioner, on acceptance of the offer made on behalf of the Nuclear Power Corporation of India Ltd. (hereinafter referred to as "the NPCIL"), was employed as Surgeon SO/SF at Rajasthan Atomic Power Station Hospital, Anu Shakti (hereinafter referred to as "the RAPS Hospital") in the month of January, 1990 with the pay scale of Rs.4500-5700. Being a senior most Surgeon the petitioner was also designated as Medical Superintendent, RAPS Hospital under an order dated 20.9.1991. Worthwhile to be noted that there was no independent post of Medical Superintendent with NPCIL but the prevailing practice was to designate senior most Medical Officer as Medical Supervisor.

It appears that due to certain administrative problems the petitioner was not interested to continue as Medical Superintendent, therefore, by a letter dated 11.6.1992 he made a request to appoint someone else as Medical Superintendent and ultimately by an application dated 12.9.1992 addressed to the Chief Superintendent, RAPS, tendered his resignation from the post of Medical Superintendent, RAPS Hospital. The letter of resignation dated 12.9.1992 reads as follows:-

> "To
>
> Shri T.S.V. Ramanan,
> Chief Superintendent,
> RAPS Site.
>
> Sub : Resignation from the post of
> Medical Supdt. RAPS Hospital.
>
> Sir,
>
> You being my Superior Officer, hesitated to give even a certificate that my work & conduct is satisfactory then I think morally I have no right to remain as Medical Superintendent or any post which you do not like or for which you feel I am unfit. Hence I am submitting my resignation from the post of Medical Supdt. RAPS Hospital.
>
> Thanking you,

Yours sincerely
Sd/-
(Dr.(Major)H.S.Rathore)

Dated : 12.9.92
RAPS Hospital"

The letter of resignation was forwarded to the head office of NPCIL at Bombay through FAX on 15.9.1992 and on the same day the Director (Personnel) NPCIL, Bombay conveyed to the Chief Superintendent, RAPS about the acceptance of the resignation by the "competent authority" and accordingly an instruction was also given to relieve the petitioner from his duties in NPCIL. In compliance of that the Manager (Personnel) RAPS, Plant Site relieved the petitioner from his duties in RAPS/NPCIL under an order dated 16.9.1992. Pertinent to note here that on 16th, 17th and 18th September, 1992 the petitioner was on leave being attending a workshop at Bombay. On knowing about acceptance of his resignation and relieving from duties of NPCIL the petitioner on 19.9.1992 submitted a representation to the Managing Director, NPCIL, Bombay, that reads as under:-

"Kindly refer my letter No.406 dated 12.9.92 addressed to Shri T.S.V.Ramanan, Chief Supdt. RAPS (copy attached) in context to the above subject this letter I have written in continuation of my letters dated 08.1.92, 28.5.92 & 11.6.92, all addressed to Shri T.S.V.Ramanan, CS, RAPS.

When I reached RAPS Hospital on 19.9.92 in the after noon from Bombay, there is a rumor that I have been relieved from my duties from NPC. I think my letter referred above is totally mis-understood and mis-interpreted. I have expressed my views to Chief Supdt. RAPS for working as Medical Superintendent, RAPS Hospital through all the above quoted letters including the letter in reference too. No where I have asked for resignation from NPCIL and neither the letter was addressed to the Appointing Authority i.e. M.D. NPCIL.

It is more surprisingly that when I was on leave on 16, 17, 18.9.92 at Bombay and asked for an appointment to Director (P) & ED (PF), NPCIL and was meeting almost all officers at NPC, Head Officer every day including Director (P) and DGM (P&IR), no one by Director (P) & DGM (P&IR) to sort out my long pending problems regarding my pay and reimbursement of treatment charges in respect of my daughters.

If, this rumor be the fact, I strongly protest such arbitrary, unjustifible decision taken in haste by the authority.

The Chairman, AEC, Additional Secretary, DAE and M.D. NPCIL are requested to re-interpet the above said letter in a true spirit.

Thanking you,”

On the same day the petitioner also withdrew the letter of resignation dated 12.9.1992 despite that he was not allowed to resume duties, hence this petition for writ was preferred before Jaipur Bench of this Court on 28.9.1992. The cause of action being arisen at Rawatbhata in District Chittorgarh by an order dated 21.5.1997 the petition for writ was transferred to Principal Seat of this Court at Jodhpur.

Though several grounds are raised by counsel for the petitioner to challenge the act impugned but I am dealing with the first contention only as I am convinced that it is sufficient to redress grievance of the petitioner raised in this petition for writ. The argument formulated by counsel for the petitioner is that the letter of resignation dated 12.9.1992 was wrongly interpreted by the respondent as the petitioner by letter aforesaid intended to resign from the work of Medical Supervisor and not from the post held by him i.e. of Surgeon SO/SF. It is emphasised by counsel for the petitioner that the appointment was given to the petitioner to the post of Surgeon SO/SF and he was instructed to look after the work of Medical Superintendent being a senior most Surgeon. The petitioner never intended to resign from the services but only to leave the work pertaining to the Medical Superintendent. According to counsel for the

petitioner a bare reading of the letter of resignation dated 12.9.1992 is also quite clear in this regard. It is also asserted that only for the reason that the petitioner was intending to get himself disassociated with the work of Medical Superintendent addressed the letter dated 12.9.1992 to the Chief Superintendent, RAPS Site and not to the competent authority.

Per contra, in reply to the writ petition it is stated by the respondents that the intention of the petitioner was to resign from the post held by him and, therefore, he was rightly relieved from the service of NPCIL on acceptance of resignation by competent authority i.e. the Managing Director, NPCIL, Bombay. During the course of hearing of the case counsel for the respondent in unambiguous terms stated that the record relating to acceptance of resignation submitted by the petitioner is not available with the respondent and also that there is no cadre of Medical Superintendent and the petitioner as a matter of fact was working with NPCIL in the capacity of Surgeon.

Heard counsel for the parties.

The issue, that requires consideration by this Court, in the instant matter is with regard to intention of the petitioner under the letter dated 12.9.1992. The letter dated 12.9.1992 is addressed to the Chief Superintendent, RAPS Site, NPCIL.

Admittedly, the Chief Superintendent, RAPS Site was not the authority competent to accept resignation of the petitioner from the services of NPCIL. The letter dated 12.9.1992 also nowhere mentions for placing it or forwarding it to the Managing Director, NPCIL. It is also pertinent to note that the petitioner referred the subject of the letter as “resignation from the post of Medical Superintendent, RAPS Hospital” and also mentioned in the letter that he is submitting his resignation from the post of Medical Superintendent, RAPS Hospital, whereas, he has signed the letter aforesaid in the capacity of Surgeon SO/SF. A bare reading of the letter dated 12.9.1992 makes it crystal clear that the petitioner was very much aware of the difference between the Medical Superintendent and the Surgeon SO/SF. The petitioner in the entire communication dated 12.9.1992 nowhere stated that he want to resign from the post of Surgeon SO/SF. This fact is sufficient to establish that the petitioner was intending to get himself relieved from the work of Medical Superintendent while continuing as Surgeon SO/SF. The intention of the petitioner is further clear from the communication dated 19.9.1992, wherein he in quite unambiguous terms stated that his letter dated 12.9.1992 was misunderstood and misinterpreted. He never expressed his intention for resigning from the services. The petitioner for abundant caution on 19.9.1992 itself also withdrew the letter dated 12.9.1992. The cumulative effect of all the facts

stated above including that the letter dated 12.9.1992 was not addressed to the competent authority but to the Chief Superintendent, RAPS Site, establishes it well that no resignation from service was submitted by the petitioner and the respondent misinterpreted the contents of the letter dated 12.9.1992. In the entire case the haste on part of the respondents in taking the action is also not understandable. The petitioner submitted letter of resignation from the post of Medical Superintendent on 12.9.1992 and that was sent by FAX to the competent authority on 15.9.1992 and the competent authority on the same day without examining the real contents, intention and the implication of letter concerned accepted the resignation of the petitioner from service and ordered to relieve him from duties. The competent authority should have waited atleast to get the original document. It is true that a decision on a FAX message in certain circumstances could have been taken but in the instant matter when the letter of resignation itself was not addressed to the Managing Director, NPCIL, Bombay i.e. the competent authority, then the better course was to get the original document and to examine the real intention of the petitioner while tendering the resignation.

For the reasons above, I am convinced that the respondent erroneously accepted the resignation of the petitioner from service. In result, this petition

for writ succeeds and, therefore, the same is allowed. The order dated 16.9.1992 (Ex.15) accepting the resignation of the petitioner from service is quashed. The respondent is directed to reinstate the petitioner in service with all consequential benefits.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.